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Supreme Court, U.S.
FILED

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No. 98-

IN THE

Supreme Court of the United States

OCTOBER TERM, 1998

PEDRO M. GONZALEZ,

Petitioner,

v.

DRUG ENFORCEMENT ADMINISTRATION,
OFFICE OF ASSET FORFEITURE, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE FIRST CIRCUIT.

PETITION FOR WRIT OF CERTIORARI.

PEDRO M. GONZALEZ
568 Chestnut Street
Third Floor
Springfield, Massachusetts 01103
(413) 788-4373

BATEMAN & SLADE, INC. BOSTON, MASSACHUSETTS

1598

QUESTIONS PRESENTED.

I. Was Petitioner's complaint for relief from administrative forfeiture properly dismissed where the Government provided only limited actual notice?

II. Should the lower courts allow Petitioner exception from the rules to pursue his confiscated monies where Petitioner was *pro se*, a Dominican unfamiliar with the United States legal process, and actually innocent of any wrongdoing regarding said confiscated funds?

LIST OF PARTIES.

1. Pedro M. Gonzalez is the Petitioner in the instant case.

2. Drug Enforcement Agency is a Respondent in this action.

3. Office of Asset Forfeiture is a Respondent in this action.

4. United States of America is a Respondent in this action.

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OPINIONS BELOW.

1. The opinion of the United States Court of Appeals for the First Circuit appears at Appendix A and is unpublished.

2. The opinion of the United States District Court appears at Appendix B and is unpublished.

JURISDICTION.

1. The date of which the United States Court of Appeals for the First Circuit decided my case was June 11, 1998.

2. A timely Petition for Rehearing was denied by the United States Court of Appeals for the First Circuit on the following date: July 23, 1998, and a copy of the order denying rehearing appears at Appendix C.

3. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

1. Rule 60(b) of the Federal Rules of Civil Procedure.

2. 28 U.S.C. § 2465.

STATEMENT OF THE CASE.

Plaintiff received a secured loan from Baybank for $100,000.00 in 1988 or 1989 using his business as collateral. He has ownership interests in numerous businesses in Springfield, Massachusetts which include Gonzalez Markets, Gonzalez Markets III, Gonzelez Supermarket and Gonzalez Discount. Petitioner is a legitimate businessman and has never been involved in illicit narcotics or money laundering.

As of June, 1993, Petitioner had $50,000.00 left from the loan in a safe deposit box at the Multibank on Main Street in Springfield, Massachusetts. This money was being held as an emergency cash reserve for use in Petitioner's businesses.

Based upon the statements of informants whose statements later proved to be lies, Petitioner was arrested on or about May 14, 1993 for alleged money laundering in a case before the United States District Court in Springfield, Massachusetts. Plaintiff spent a week or two in the Ludlow and Northampton, Massachusetts jails before he was released.

While Petitioner was incarcerated on or about May 18, 1993, the Drug Enforcement Agency (DEA) executed numerous search warrants and seized money and papers from numerous locations including Petitioner's businesses. Petitioner's $50,000.00 was seized at Multibank and $80,000.00 was seized from Petitioner's brother, Jose Gonzalez, from a safe deposit box at the same bank.

Approximately two months after Petitioner was released from jail, Petitioner received a DEA Forfeiture Notice No. 139317 dated June 21, 1993. This letter/notice had been mistakenly received by a first floor tenant at 568 Chestnut Street in Springfield, Massachusetts where Petitioner and his

family reside on the third floor. When Petitioner finally received the letter, the twenty (20) days for contesting the forfeiture administratively had expired.

The charges of money laundering Petitioner had originally been charged with were ultimately dismissed.

Jose Gonzalez had his $80,000.00 returned to him along with all other monies and papers. Petitioner's $50,000.00 has not been returned. Petitioner is still repaying Baybank the $100,000.00 loan of which the $50,000.00 seized was part thereof. He is deeply in debt.

Petitioner has spent considerable amounts of time and money attempting to resolve this matter with the DEA by telephone and attempting to find legal counsel to assist him in recovering his rightfully-owned $50,000.00. Ultimately Petitioner was told that he would have to file the case *pro se* or find an attorney to represent Petitioner of this matter, which he has been unable to do. Petitioner requests the Court liberally construe his filings since he is proceeding *pro se*. *Haines* v. *Kerner*, 404 U.S. 519 (1972).

REASONS FOR GRANTING THE PETITION.

1. The United States, and through its agents the DEA and the Office of Asset Forfeiture, originally charged Petitioner with money laundering because they thought he was a drug dealer. They seized his $50,000.00 in cash from a lawfully obtained loan. Subsequently, it has come to light that the informant(s) were liars and no foundation that Petitioner was a drug dealer or money launderer existed. If justice existed for Petitioner, his $50,000.00 would have been returned to him

immediately. It was not. Petitioner's lawfully obtained $50,000.00 should not be kept to assist law enforcement of the United States when Petitioner is attempting to eke out a living as a small businessman.

2. Petitioner is a Dominican unaware of the ways of the United States judicial system. One can make a very substantial argument that Petitioner was never adequately apprised of his right to a forfeiture hearing to save his $50,000.00. The letter/notice went to the first floor, not the third, and Petitioner never signed for the letter/notice.

3. Above all else, Petitioner is an innocent party being victimized to the tune of $50,000.00. He should at the very least be heard on this matter before the Court. Such was not the case in the lower courts and this creates a crystal-clear miscarriage of justice.

CONCLUSION.

Petitioner should have been allowed to have been heard on the matter of his $50,000.00 being seized administratively by the United States and/or its agents especially considering the fact that all criminal charges were dismissed. Petitioner moves the United States Supreme Court order the United States to either summarily return Petitioner's $50,000.00 to Petitioner or order the United States District Court in Springfield, Massachusetts to convene a civil hearing and show cause why the Petitioner's $50,000.00 should still be confiscated outside of the administrative rule that he did not re-

quest a hearing within twenty (20) days. The petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX A.

United States Court of Appeals
For the First Circuit

No. 97-2018

PEDRO M. GONZALEZ,
Plaintiff, Appellant,

v.

DRUG ENFORCEMENT ADMINISTRATION,
OFFICE OF ASSET FORFEITURE, ET AL.,
Defendants, Appellees.

Before
Selya, Circuit Judge,
Campbell, Senior Circuit Judge,
and Lynch, Circuit Judge.

ORDER OF COURT

Entered: June 11, 1998

The motion to allow late filed brief and to reinstate the appeal is denied because appellant has provided an insufficient excuse for his long delay in submitting a brief.

By the Court:
PHOEBE MORSE
Clerk.

[cc: Mr. Gonzalez and Ms. Goodwin]

APPENDIX B.

United States District Court

MASSACHUSETTS

_____ DISTRICT OF _____

PEDRO M. GONZALEZ,

JUDGMENT IN A CIVIL CASE

v.

OFFICE OF ASSET FORFEITURE, DRUG ENFORCEMENT ADMINISTRATION OF U.S. DEPT. OF JUSTICE and UNITED STATES OF AMERICA,

CASE NUMBER: 96-30199-FHF

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

JUDGMENT entered for the Defendants' pursuant to the Memorandum and Order of the Court entered this date

granting the Defendants' motion to dismiss the Plaintiff's complaint.

August 13, 1997	TONY ANASTAS
Date	Clerk
	/s/

APPENDIX C.

United States Court of Appeals
For the First Circuit

No. 97-2018

PEDRO M. GONZALEZ,

Plaintiff, Appellant,

v.

DRUG ENFORCEMENT ADMINISTRATION,
OFFICE OF ASSET FORFEITURE, ET AL.,

Defendants, Appellees.

Before
Torruella, Chief Judge,
Campbell, Senior Circuit Judge,
Selya, Boudin, Stahl and Lynch,
Circuit Judges.

ORDER OF COURT

Entered: July 23, 1998

The petition for rehearing having been denied by the panel of judges who decided the case and the petition for rehearing en banc having been submitted to the active judges

of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and petition for rehearing en banc be denied.

By the Court:

PHOEBE MORSE

Clerk.

[cc: Mr. Gonzalez and Ms. Goodwin]